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10/817,060

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EXAMINER

PANDYA, SUNIT

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

10/19/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/817,060 | Applicant(s) SCHNEIDER, RICHARD J. | |
| | Examiner SUNIT PANDYA | Art Unit 3714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 & 7-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/21/09 has been entered.

Response to Amendment

This action is in response to amendments filed on 7/21/09, wherein the examiner acknowledges that claims 1, 7, 16 & 21 have been amended, no new claims have been added and no claims have been canceled; consequently, claims 1-5 & 7-21 are currently pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baerlocher (US Patent Publication 2003/0060266) in view of Rowe (US Patent 6,620,046).

Claims 1, 7: Baerlocher discloses a method for initiating access to a secondary game on a gaming device during the play of the primary game, the method comprising, presenting a pre-selected wager threshold to the player (0061-0062, wherein the threshold is presented in the game which is being utilized by the player), displaying a pre-stored trigger on the display (figure 1, element 56) accepting a wager, comparing the wager to a pre-selected wager threshold (or monetary input trigger condition) and initiating the secondary (bonus) game, when the accepted wager equals the pre-selected wager threshold, wherein the initialization of the bonus game occurs when the wagered amount crosses a threshold (or a monetary input trigger condition) (0061-0062 & 0065). Baerlocher also discloses reporting or awarding the outcome as a result of the wagering game (0020, 0067). Baerlocher also discloses a bonus condition being activated when the monetary input surpasses predefined amount and when the base game has achieved a bonus trigger condition, however, Baerlocher fails to disclose that the bonus game is independent from the output of the base game.

In a related art, Rowe teaches a method for awarding bonuses in a gaming environment, furthermore, Rowe allows implementing a bonus game, which is independent of specific outcome of a base game played on a gaming machine (col. 12: 56-67, wherein a player does not have to achieve a predefined condition or a trigger condition in a base game to activate a bonus game). Thus, it would have been obvious

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for one with ordinary skill in the art at the time of the invention, to have implemented an independent bonus game as taught by Rowe in the gaming system disclosed by Baerlocher, thus increasing player's desire to continue playing, because the players know that they can be eligible for a bonus regardless of their performance on the base game (col. 12: 62-67).

Claim 2: The combination of Baerlocher and Rowe teach accepting a wager to play the base (primary) game (Baerlocher 0032).

Claim 3: The combination of Baerlocher and Rowe teach initiating the secondary (bonus) game when the accepted wager equals the pre-selected wager threshold (Baerlocher 0061-0062 & 0064).

Claim 4: The combination of Baerlocher and Rowe teach comparing the accepted wager to a maximum wager (Baerlocher 0073).

Claim 5: The combination of Baerlocher and Rowe teach comparing the accepted wager to an amount less than a maximum wager (Baerlocher 0067-0068).

Claim 8: The combination of Baerlocher and Rowe teach a first indicator for primary game and a second indicator for a secondary game (Baerlocher 0035-0037).

Claim 9: The combination of Baerlocher and Rowe teach reel being an indicator (Baerlocher 0032).

Claim 10: The combination of Baerlocher and Rowe teach wheel being a second indicator (Baerlocher 0032).

Claims 11 & 13: The combination of Baerlocher and Rowe teach the pre-stored trigger being a wager type or amount (Baerlocher 0061-0062).

Claim 12: The combination of Baerlocher and Rowe teach, the wager type trigger being a maximum wager amount (Baerlocher 0073).

Claim 14: The combination of Baerlocher and Rowe teach that the pre-stored trigger is a wager source (wherein the wager source is the source which evokes machine into action 0061-0062, Baerlocher).

Claim 15: The combination of Baerlocher and Rowe teach that the wager source is a player-tracking card (Rowe col. 8: 20-32).

Claim Rejections - 35 USC § 103

Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baerlocher and Rowe as applied to claims above, and further in view of Paulsen (US Patent Publication 2002/0142846).

Claims 16 & 21: Baerlocher discloses a gaming machine with a secondary game comprising accepting a wager on primary or base game, comparing the wager to a pre-selected wager threshold (or a monetary input trigger condition) and initiating the secondary (bonus) game when the accepted wager equals the pre-selected wager threshold (or a monetary trigger condition) (0061-0062 & 0064) wherein the initialization of the bonus game occurs when the wagered amount crosses a threshold (or a monetary input trigger condition) (0061-0062 & 0065). Baerlocher also discloses reporting or awarding the outcome as a result of the wagering game (0020, 0067). Baerlocher discloses bonus condition being activated when the monetary input surpasses predefined amount and when the base game has achieved a bonus trigger

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condition, however, Baerlocher fails to disclose means for determining whether a player is enrolled in a player tracking system and that the bonus game is independent from the output of the base game. Baerlocher, also fails to disclose a first predetermined threshold, which is different from a second predetermined threshold, wherein the first predetermined threshold applies to players enrolled in the player tracking system, and the second threshold applies to players not enrolled in the tracking system.

In a related art, Rowe teaches a method for awarding bonuses in a gaming environment. Rowe allows implementing a bonus game which is independent of specific outcome of a base game played on a gaming machine (col. 12: 56-67, wherein a player does not have to achieve a predefined condition or a trigger condition in a base game to activate a bonus game). Furthermore, Rowe also teaches means for determining whether a player is enrolled in a player tracking system (col. 2: 3-10). Therefore, it would have been obvious for one with ordinary skill in the art at the time of the invention, to have implemented an independent bonus game as taught by Rowe in the gaming system disclosed by Baerlocher, to increase player's desire to continue playing because they know that they can be eligible for a bonus regardless of their performance on the base game (col. 12: 62-67, thus the combination of Baerlocher and Rowe will allow for the activation of secondary game regardless of timing of comparison, since the base game is not associated with activation of bonus game).

In an analogous art, Paulsen teaches providing players who are enrolled in the player tracking system, preferred promotional/reward opportunities which are not provided to players not enrolled in the player tracking system (abstract and 0034). Thus

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Paulsen, provides a different award to be presented to the player enrolled in the tracking system, than the award presented to the player not enrolled in the player tracking system, upon wagering on a gaming machine. Therefore, it would have been obvious for one with ordinary skill in the art at the time of the invention, to have modified the game machine disclosed by Baerlocher, to include promotional/reward opportunities to the players who are enrolled in the player tracking system, resulting in increased number of player's enrolling in the player tracking, thus building a repeating customer base.

Claims 17-19: The combination of Baerlocher, Rowe and Paulsen teach that the first outcome is the primary game outcome and secondary outcome is the secondary or bonus game outcome, and any combination thereof with the primary and the secondary game outcomes (Baerlocher 0036-0044 & 000061-0065).

Claim 20: The combination of Baerlocher, Rowe and Paulsen teach initiating the secondary (bonus) game when the accepted wager equals the pre-selected wager threshold (Baerlocher 0061-0062 & 0064).

Response to Arguments

Applicant's arguments with respect to claims 1-5 & 7-21 have been considered but are moot in view of the new ground(s) of rejection.

The examiner would also like to point out that, in the rejection above, the examiner has cited particular columns and line numbers or paragraph numbers from the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on M-Th 8 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Primary Examiner, Art Unit 3714

SP